

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No. 17463US02)**

*In the Application of:*

Theodore Trost et al.

*U.S. Serial No.:* 09/788,061

*Filed:* February 16, 2001

*For:* BLUETOOTH BASEBAND  
SOLUTION WITH REDUCED  
PROCESSOR REQUIREMENTS AND  
INTEGRATED HOST CONTROLLER

*Examiner:* Eugene Yun

*Group Art Unit:* 2618

*Conf. No.:* 5102

*Customer No.:* 23446

## **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via EFS-Web to the United States Patent and Trademark Office on November 25, 2008.

/Michael T. Cruz/

Michael T. Cruz

Reg. No. 44,636

## **Commissioner for Patents**

P.O. Box 1450

Alexandria, VA 22313-1450

**Attention: Refund Section, Accounting Division, Office of Finance**

**REQUEST FOR REFUND  
(37 C.F.R. § 1.28(a))**

**NOTE:** 37 C.F.R. § 1.28(a): "(a) Refunds based on later establishment of small entity status. A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee."

**NOTE:** Submission of a Change of Status (small/not small entity status) after issuance of the Notice of Allowance in an application does **not** result in a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10). See Notice of May 29, 2001, 1247 OG 111-112, June 26, 2001.

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(A) AND 1.10\***  
(When using Express Mail, the Express Mail label number is *mandatory*;  
Express Mail certification is *optional*.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILED**

- deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Alexandria, VA, 22313  
**37 C.F.R. § 1.8(a)** **37 C.F.R. § 1.10 \***  
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## TRANSMISSION

- facsimile transmitted to the Patent and Trademark Office, 571-273-6500  
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Date: November 25, 2008

/Michael T. Cruz/

Michael T. Cruz, Reg. No. 44,636

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

U.S. Application No. 09/788,061, filed February 16, 2001

Attorney Docket No. 17463US02

Request for Refund dated November 25, 2008

**I SUBMISSION OF SMALL ENTITY ASSERTION**

(complete (a) or (b))

- (a)  Attached is an assertion of small entity status in this application.
- (b)  An assertion of small entity status was filed in this application on  
\_\_\_\_\_.

**II REFUND REQUEST**

This request for refund is made for the fee which was paid in this application on November 21, 2008, in the amount of \$ 540.00 (Notice of Appeal fee).

It is believed that Applicant has a credit for one Notice of Appeal Fee that was paid with respect to a Previous Notice of Appeal Fee dated January 19, 2007.

Applicant respectfully requests that the Previous Notice of Appeal Fee paid with the Previous Notice of Appeal dated January 19, 2007 be applied to the Present Notice of Appeal Fee due with the Present Notice of Appeal dated November 21, 2008 in accordance with M.P.E.P. § 1207.04.

The prosecution history, in relevant part, is as follows:

1<sup>st</sup> Notice of Appeal dated January 19, 2007 (\$500 fee paid)  
1<sup>st</sup> Appeal Brief Filed on May 22, 2007 (\$500 fee paid)  
Examiner reopens prosecution on November 1, 2007  
Examiner mails Office Action on November 1, 2007

Thus, the Examiner reopened prosecution of the present application without the Appeal Brief ever reaching the Board of Patent Appeals and Interferences for a decision on the merits.

Subsequently, Applicant filed a 2<sup>nd</sup> Notice of Appeal dated November 21, 2008. It is therefore believed that Applicant has a credit of \$500 for the 1<sup>st</sup> Notice of Appeal Fee paid back on January 19, 2007.

The relevant portion of the M.P.E.P. is M.P.E.P. § 1207.04, which states:

If, appellant elects to continue prosecution and prosecution was reopened prior to a decision on the merits by the Board of Patent Appeals and Interferences, the fee paid for the notice of appeal, appeal brief, and request for oral hearing (if applicable) will be applied to a later appeal on the same application.

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**III. FEE PAID FOR WHICH REFUND REQUESTED**

	<b>AMOUNT OF REFUND REQUESTED</b>
<input type="checkbox"/> Filing Fee	\$ _____
<input type="checkbox"/> Surcharge for filing the basic filing fee on a date later than the filing date of the application (37 C.F.R. § 1.16(e) or 37 C.F.R. § 1.16(l)).	\$ _____
or	
<input type="checkbox"/> Surcharge for filing the oath or declaration on a date later than the filing date of the application (37 C.F.R. § 1.16(e)).	\$ _____
<input type="checkbox"/> Surcharge for filing the basic filing fee on a date later than the filing date of the provisional application (37 C.F.R. § 1.51(c)(1) and 37 C.F.R. 1.16(l))	\$ _____
or	
<input type="checkbox"/> Surcharge for filing the cover sheet on a date later than the filing date of the provisional application (37 C.F.R. § 1.51(c)(1) and 37 C.F.R. § 1.16(l))	\$ _____
<input type="checkbox"/> Extension of term	\$ _____
<input type="checkbox"/> Issue fee	\$ _____
<input type="checkbox"/> Patent maintenance fee	
<input type="checkbox"/> first maintenance fee	\$ _____
<input type="checkbox"/> second maintenance fee	\$ _____
<input type="checkbox"/> third maintenance fee	\$ _____
<input type="checkbox"/> Patent maintenance fee surcharge.	\$ _____
<i>NOTE:</i> The refund provisions of § 1.28(a), for later submitted small entity statements, apply to maintenance fees. Notice of July 30, 1984, 1046 O.G. 28-37.	
<input checked="" type="checkbox"/> Other (Notice of Appeal filing fee)	\$500.00
<b>TOTAL REFUND REQUESTED</b>	<b>\$500.00</b>

**IV. MANNER OF REFUND**

Please make refund by crediting:

- Deposit Account No. 13-0017.
- Credit card as shown on the attached credit card information authorization form PTO-2038.
- WARNING:** Credit card information should **not** be included on this form as it may become public.
- refunding overpayment.

U.S. Application No. 09/788,061, filed February 16, 2001

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Request for Refund dated November 25, 2008

Respectfully submitted,

Date: November 25, 2008

/Michael T. Cruz/

Reg. No. 44,636

Customer No. 23446

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Chicago, Illinois 60661  
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